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Billard**DECISION****THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-205088

DATE: October 28, 1981

MATTER OF: Copeland Safe & Alarm Systems

DIGEST:

Bid is properly rejected as nonresponsive where protester adds condition to solicitation requiring payment of 50 percent of contract price upon commencement of performance, and IFB provided for payment upon completion of work.

Copeland Safe & Alarm Systems (Copeland), protests the rejection of its bid for furnishing and installing burglar alarm systems submitted under invitation for bids (IFB) R5-05-81-118, issued by the Klamath National Forest, U.S. Department of Agriculture.

Copeland contends that it was the low bidder and entitled to award; it protests the contracting officer's refusal to allow Copeland to remove from its bid, after bid opening, a provision inserted by the protester that it receive 50 percent of the contract price upon commencement of the work.

Attached to the protester's letter is a copy of a letter from the contracting officer in which he explained to Copeland why he had rejected the firm's bid. The contracting officer noted that the condition which Copeland wrote upon its bid, "50% at start of construction, Remainder upon finish of job," conflicted with the IFB, which stated that "Payment will be made upon completion of work in all areas and by the acceptance of the Contracting Officer--LUMP SUM." The contracting officer concluded that the bid was non-responsive because Copeland had taken exception to a material provision of the solicitation and that it would be unfair to permit Copeland to delete the provision after bids had been opened.

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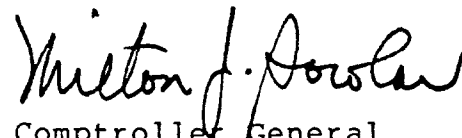
The contracting officer's decision was correct. As the contracting officer observed in his letter to Copeland, there is a statutory prohibition against advance payment. 31 U.S.C. § 529 (1976); see Computer Election Systems, Inc., B-195595, December 18, 1979, 79-2 CPD 413. The IFB provision quoted above reflects this requirement.

Copeland's bid was nonresponsive because the condition of payment which it added to the bid form was a material variance from the payment provisions of the IFB. Dobbs Detroit Diesel, Inc., B-182992, May 29, 1975, 75-1 CPD 326.

Copeland suggests that it had only a few hours to review the bid package before submitting its bid and as a result it inserted a term which was routine in its commercial sales without realizing that it conflicted with the IFB. This provides no basis for permitting Copeland to delete the objectionable provision after bids have been opened and the competitors' prices exposed. To allow a bidder the opportunity to modify its nonresponsive bid to make it responsive would, in effect, give it the choice, after bid opening, of whether to receive the award. This would compromise the integrity of the competitive bid system. See, e.g., Sperry-Univac, B-200378, January 22, 1981, 81-1 CPD 38.

Since it is clear from the contents of Copeland's initial submission that the protest is without legal merit, we have reached our decision without requiring a report from the Forest Service. CFE Equipment Corporation, B-203082, May 29, 1981, 81-1 CPD 426.

The protest is summarily denied.

for 
Comptroller General
of the United States